

CONTRACT LAW DIVISION

Office of the Assistant General Counsel for Finance and Litigation

Biweekly Report—Period Ending June 21, 1997

TSA v. DOC—GSBCA No. 13227-COM

The Board has denied the Government's Motion for Summary Dismissal of Appellant's Appeal which was filed on the basis that the Appellant falsely certified that it had not been terminated for default for the past three years. The Board held that questions of fact existed as to whether the Appellant had knowingly certified that it had not been terminated for default within the past three years. The Appeal, which is a termination for default claim, will proceed on the merits. Lisa Obayashi and Terry Lee have the appeal.

Techno-Sciences, Inc. v. DOC—GAO B-277260

TSI protested NOAA's award of a contract for nonproprietary software and maintenance services to the SBA. NOAA previously contracted with TSI for proprietary software and services, but declined to exercise the second option year. TSI alleges that NOAA's award to the SBA for \$323,650 exceeds the fair market price by \$223,650 (TSI's software and services were offered for \$100,000). GAO initially reviewed the protest for possible dismissal based on timeliness grounds, but has decided to review the price reasonableness and will assign the protest to an attorney by the end of the week. We have contacted the SBA 8(a) specialist to determine whether the SBA will be interested in intervening. Amy Freeman and Mark Langstein have the case.

NOAA/NMFS

NMFS requested legal advice regarding its authority to grant a long-term easement to the Seattle Yacht Club (SYC) for land to be used as a parking lot. NMFS also inquired whether the agency could retain any funds from selling such an easement. We advised that NOAA/NMFS has no authority to grant an easement which is negative in character and would severely restrict NMFS's use of Federal property. We also determined that, absent statutory authority, any money received by the agency would be deposited in Treasury as miscellaneous receipts. However, we noted that NMFS could continue its practice of granting SYC five-year licenses for its use of this property. Mark Langstein, Amy Freeman and Alice McKenna(OGC/Admin) are advising.

Hughes STX Government Shutdown Claims

Fred Kopatich has assisted the Contracting Officer

in drafting a final decision denying Hughes STX's certified claim for reimbursement of layoff costs it paid to its furloughed employees under four NOAA contracts during the December, 1995-January, 1996 Government shutdown. After final revisions are made, the decision will be issued to the contractor.

Novation Agreement of Lockheed Martin

Lockheed Martin submitted a novation agreement with DOD because of the merger of LM and LM Tactical Systems. Although the acquisition is being processed by DOD, the Department was invited to participate. Steve Carrara provided our comments to OAM which addressed the allocation and allowability of proposed restructuring cost. It is our understanding that the Department has little interest in pursuing the novation because of the cost uncertainties.

2000 Advertising Procurement

The Census Bureau issued an amendment clarifying that subcontractors are to demonstrate experience and expertise in reaching historically undercounted groups, and eliminating any inference that minority-owned subcontractors were required. Fred Kopatich is advising.

Actions Completed/Received during Period			
From	6/8/97	To	6/21/97
Received		Completed	
CENSUS	1		1
NIST	1		1
NOAA	11		12
Total	13	Total	14

